

Executive Summary – Enforcement Matter – Case No. 42055

City of Buffalo

RN101917540

Docket No. 2011-1183-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Buffalo, located at 613 John Bullock Boulevard, adjacent to and east of Marion Boulevard, approximately 3/4 mile north-northeast of the intersection of United States Highways 75 and 79, Leon County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 21, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,020

Amount Deferred for Expedited Settlement: \$404

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,616

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42055

City of Buffalo

RN101917540

Docket No. 2011-1183-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 21, 2011

Date(s) of NOE(s): June 30, 2011

Violation Information

Failed to comply with the permitted effluent limits for ammonia nitrogen and carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010022001 Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By April 30, 2011, the Respondent increased supervision of industrial customers to ensure the flow of industrial waste into the treatment system was not excessive.

Technical Requirements:

The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with permitted effluent limitations of TPDES Permit No. WQ0010022001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

Executive Summary – Enforcement Matter – Case No. 42055

City of Buffalo

RN101917540

Docket No. 2011-1183-MWD-E

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Royce Dawkins, Mayor, City of Buffalo, P.O. Box 219,
Buffalo, Texas 75831

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ
DATES

Assigned
PCW

27-Jun-2011
11-Jul-2011

Screening

8-Jul-2011

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent City of Buffalo

Reg. Ent. Ref. No. RN101917540

Facility/Site Region 9-Waco

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 42055

Docket No. 2011-1183-MWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 1

Order Type 1660

Government/Non-Profit Yes

Enf. Coordinator Harvey Wilson

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

102.0%

Enhancement

Subtotals 2, 3, & 7

\$1,020

Notes

Enhancement for one Agreed Order with denial of liability, 14 months of self-reported effluent violations, and six NOV's for dissimilar violations.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$0

Economic Benefit

0.0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$49

Approx. Cost of Compliance \$500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$2,020

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$2,020

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$2,020

DEFERRAL

20.0%

Reduction

Adjustment

-\$404

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$1,616

Screening Date 8-Jul-2011

Docket No. 2011-1183-MWD-E

PCW

Respondent City of Buffalo

Policy Revision 2 (September 2002)

Case ID No. 42055

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917540

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	14	70%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 102%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one Agreed Order with denial of liability, 14 months of self-reported effluent violations, and six NOVs for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 102%

Screening Date 8-Jul-2011

Docket No. 2011-1183-MWD-E

PCW

Respondent City of Buffalo

Policy Revision 2 (September 2002)

Case ID No. 42055

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917540

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010022001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limits (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate the ammonia nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

59 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$49

Violation Final Penalty Total \$2,020

This violation Final Assessed Penalty (adjusted for limits) \$2,020

Economic Benefit Worksheet

Respondent City of Buffalo
Case ID No. 42055
Reg. Ent. Reference No. RN101917540
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	1-Feb-2011	30-Jun-2012	1.41	\$2	\$47	\$49
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of increased supervision of the industrial customers to ensure the flow of industrial waste into the treatment system is not excessive and meet permitted effluent limits. Date Required is the date of the first exceedance. Final Date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$49

City of Buffalo
 RN101917540
 TPDES Permit No. WQ0010022001
 Docket No. 2011-1183-MWD-E
 Violation Table

Monitoring period	Ammonia Nitrogen Daily Average Concentration 3 mg/L	Ammonia Nitrogen Daily Average Loading 8 lb/d	Ammonia Nitrogen Single Grab 15 mg/L	Carbonaceous Biochemical Oxygen Demand Daily Average Concentration 10 mg/L
February 2011	11.43	21.6	21.1	C
March 2011	12.36	14.36	19.5	10.4
mg/L = milligrams per Liter lb/d = pounds per day C = compliant				

Compliance History

Customer/Respondent/Owner-Operator:	CN600337810	City of Buffalo	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN101917540	CITY OF BUFFALO	Classification: AVERAGE	Site Rating: 0.99
ID Number(s):	WASTEWATER	PERMIT	WQ0010022001	
	WASTEWATER	EPA ID	TX0053627	
	WASTEWATER LICENSING	LICENSE	WQ0010022001	
Location:	613 John Bullock Boulevard, adjacent to and east of Marion Boulevard, approximately 3/4 mile north-northeast of the intersection of United States Highways 75 and 79 in Leon County, Texas			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	July 08, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 08, 2006 to July 08, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Harvey Wilson		Phone:	239 - 0321

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

N/A	Effective Date: 04/11/2010	ADMINORDER 2009-1267-MWD-E
	Classification: Minor	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
	30 TAC Chapter 305, SubChapter F 305.125(5)	
	Rqmt Prov: Operational Requirement; No. 4, Pg. 10 PERMIT	
	Description: Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.	
- B. Any criminal convictions of the state of Texas and the federal government.

N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	10/18/2007	-571072
2	02/23/2007	(581613)
3	03/19/2007	(581615)
4	04/23/2007	(581617)
5	05/23/2007	(581619)

6	06/22/2007	(581621)
7	07/24/2006	(581622)
8	08/21/2006	(581623)
9	09/20/2006	(581624)
10	10/25/2006	(581626)
11	11/20/2006	(581628)
12	02/13/2007	(581630)
13	01/22/2007	(581632)
14	02/05/2007	(593274)
15	08/23/2010	(597275)
16	07/26/2007	(608196)
17	08/24/2007	(608197)
18	09/24/2007	(608198)
19	04/15/2008	(609008)
20	10/25/2007	(621759)
21	11/29/2007	(621760)
22	12/27/2007	(621761)
23	02/28/2008	(673734)
24	01/28/2008	(673735)
25	03/28/2008	(691966)
26	04/30/2008	(691967)
27	06/02/2008	(691968)
28	06/30/2008	(712992)
29	11/10/2008	(712993)
30	08/27/2008	(712994)
31	09/29/2008	(712995)
32	10/30/2008	(720840)
33	10/23/2008	(729185)
34	11/20/2008	(729186)
35	12/29/2008	(729187)
36	03/31/2009	(740470)
37	02/25/2009	(752356)
38	03/30/2009	(752357)
39	01/30/2009	(752358)
40	07/24/2009	(761803)
41	04/27/2009	(770032)
42	05/26/2009	(770033)
43	02/22/2010	(809686)
44	06/24/2009	(809687)
45	07/20/2009	(809688)
46	08/24/2009	(809689)
47	09/24/2009	(809690)
48	10/23/2009	(809691)
49	11/23/2009	(809692)
50	12/21/2009	(809693)
51	01/25/2010	(809694)
52	04/09/2010	(827845)

53	03/22/2010	(832650)
54	04/19/2010	(832651)
55	05/24/2010	(845206)
56	06/23/2010	(846826)
57	09/10/2010	(850046)
58	09/14/2010	(850183)
59	07/19/2010	(867525)
60	08/23/2010	(867526)
61	11/22/2010	(870273)
62	09/20/2010	(874525)
63	10/21/2010	(882104)
64	01/20/2011	(885314)
65	02/24/2011	(893871)
66	11/22/2010	(896916)
67	12/17/2010	(896917)
68	01/24/2011	(902864)
69	02/22/2011	(909713)
70	06/07/2011	(912262)
71	03/24/2011	(916934)
72	04/28/2011	(926853)
73	07/01/2011	(934347)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	12/31/2006	(581632)	CN600337810	
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/05/2007	(593274)	CN600337810	
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date:	04/30/2007	(581619)	CN600337810	
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2007	(608197)	CN600337810	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)			
	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2007	(621761)	CN600337810	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)			
	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2007	(673735)	CN600337810	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)			
	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

Date:	02/29/2008	(691966)	CN600337810		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	03/31/2008	(691967)	CN600337810		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	08/31/2008	(712995)	CN600337810		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	10/30/2008	(720840)	CN600337810		
Self Report?	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Date	11/30/2008	(729187)	CN600337810		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	02/28/2009	(752357)	CN600337810		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	03/27/2009	(740470)	CN600337810		
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirement; No. 4, Pg. 10 PERMIT				
Description:	Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.				
Date	12/31/2009	(809694)	CN600337810		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	01/31/2010	(809686)	CN600337810		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	04/09/2010	(827845)	CN600337810		
Self Report?	NO			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)				
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE				
Date	08/18/2010	(597275)	CN600337810		
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirement; No. 4, Pg. 10 PERMIT				

Description: Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

Date 12/01/2010 (870273) CN600337810

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)

Description: The permittee failed to submit compliance documentation by the January 3, 2011 due date.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 317 317.4(b)(4)

Description: The permittee failed to submit compliance documentation by the January 3, 2011 due date.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(11)(B)

Description: Monitoring Requirements No.3(C)Pg.5 PERMIT
The permittee failed to submit compliance documentation by the January 3, 2011 due date.

Self Report? NO Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Requirements No. 1 Pg. 2 PERMIT

Description: The permittee failed to submit compliance documentation describing the corrective actions that have been taken to become compliant with the effluent permit limits by the January 3, 2011 due date.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Sludge Provisions, Section II, G, Pg. 22 PERMIT

Description: The permittee failed to submit a copy of the annual sludge report for compliance documentation by the January 3, 2011 due date.

Date 02/28/2011 (916934) CN600337810

Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2011 (926853) CN600337810

Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BUFFALO
RN101917540**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1183-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Buffalo ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 613 John Bullock Boulevard, adjacent to and east of Marion Boulevard, approximately 3/4 mile north-northeast of the intersection of United States Highways 75 and 79 in Leon County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 5, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Twenty Dollars (\$2,020) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Six Hundred Sixteen Dollars (\$1,616) of the administrative penalty and Four Hundred Four Dollars (\$404) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that by April 30, 2011, the Respondent increased supervision of industrial customers to ensure the flow of industrial waste into the treatment system was not excessive.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010022001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on June 21, 2011, and shown in the table below:

Violation Table

Monitoring period	Ammonia Nitrogen Daily Average Concentration 3 mg/L	Ammonia Nitrogen Daily Average Loading 8 lb/d	Ammonia Nitrogen Single Grab 15 mg/L	Carbonaceous Biochemical Oxygen Demand Daily Average Concentration 10 mg/L
February 2011	11.43	21.6	21.1	C
March 2011	12.36	14.36	19.5	10.4
mg/L = milligrams per liter lb/d = pounds per day C = compliant				

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Buffalo, Docket No. 2011-1183-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with permitted effluent limitations of TPDES Permit No. WQ0010022001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

DeVas for P. Hyde
For the Executive Director

10-26-11
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Royce Dawkins
Signature

9-08-11
Date

Royce Dawkins
Name (Printed or typed)
Authorized Representative of
City of Buffalo

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.